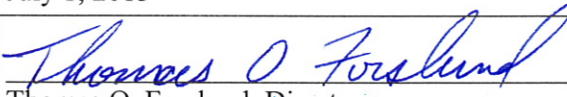


Thomas O. Forslund, Director

Governor Matthew H. Mead

Policy Title:	De-Identification and Re-Identification of Protected Health Information; Limited Data Sets and Data Use Agreements	
Policy Number:	AS-007	
Effective Date:	July 1, 2013	
Approval:	 Thomas O. Forslund, Director	<u>6/17/13</u> Date

Purpose:

Consistent with federal and state law, this policy articulates the requirements for de-identification and re-identification of protected health information (PHI), and the requirements for creating, using and disclosing limited data sets.

Scope:

This policy applies to all Wyoming Department of Health (WDH) workforce.

Policy:

1. De-identification of PHI

- a. Health information is considered de-identified, if there is no reasonable basis to believe that the information can be used to identify an individual.
- b. De-identified records are not considered PHI, and, therefore, are not given further privacy considerations. WDH encourages the use of de-identified information in lieu of PHI.
- c. De-identification may be achieved by using either of the two methods listed below.
 - i. Expert Determination. This method requires a person with appropriate knowledge of and experience with generally accepted statistical methods for rendering information not individually identifiable (expert). Applying the methods, the expert shall determine that the risk is minimal that the information could be used, alone or in combination with other reasonably available information, by an anticipated recipient to identify an individual who is the subject of the information. The expert shall document the methods used and the results of the analysis that justify such determination.
 - ii. Safe Harbor. This method requires:
 - A. That the following identifiers of the individual or of relatives, employers, or household members of the individual be removed:
 - I. Name;
 - II. All geographic subdivisions smaller than a state, including street address, city, county, precinct, zip code, and equivalent codes. The first three digits of the zip code may be retained if certain conditions are met (e.g., zip code area is smaller than 20,000);
 - III. All elements of dates (except year) directly related to an individual, including birth date, admission date, discharge date, date of death; and all ages over 89 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older;
 - IV. Telephone number (including cell numbers);

- V. Fax numbers;
 - VI. E-mail addresses;
 - VII. Social security numbers;
 - VIII. Medical record numbers;
 - IX. Account numbers;
 - X. Health plan beneficiary numbers;
 - XI. Certificate/license numbers;
 - XII. Vehicle identifiers and serial numbers, including license plate numbers;
 - XIII. Device identifiers and serial numbers;
 - XIV. Universal resource locator (URL);
 - XV. Internet protocol (IP) address;
 - XVI. Biometric identifiers, including finger and voice prints;
 - XVII. Full face photographic images and any comparable images;
 - XVIII. Any other unique identifying number, characteristic, or code; and
- B. That WDH does not have actual knowledge that the remaining information could be used, alone or in combination with other information, to identify the individual.
2. **Re-identification of PHI.** WDH may assign a code or other means of identification for the purpose of re-identifying information that has been de-identified, provided that:
- a. The code or other means of identification is not related to information about the individual and is not otherwise capable of being translated so as to identify the individual; and
 - b. WDH does not use or disclose the code or other means of identification for any other purpose, and does not disclose the mechanism for re-identification.
3. **Limited data sets and data use agreements**
- a. A limited data set is PHI from which the following direct identifiers of the individual or of relatives, employers, or household members of the individual have been removed:
 - i. Names;
 - ii. Postal address information, other than town or city, state and zip code;
 - iii. Fax number;
 - iv. E-mail address;
 - v. Social security number;
 - vi. Medical record number;
 - vii. Account number;
 - viii. Health plan beneficiary numbers;
 - ix. Certificate/license number;
 - x. Vehicle identifiers and serial numbers including license plate;
 - xi. URL and IP addresses;
 - xii. Biometric identifiers, including finger and voice prints; and
 - xiii. Full face photographic images and any comparable images.
 - b. WDH shall only use or disclose a limited data set for the purposes of research, public health, or health care operations. Only WDH or its business associate may use WDH PHI to create a limited data set.
 - c. Before using or disclosing a limited data set, WDH shall obtain satisfactory assurance, in the form of a data use agreement, that the limited data set recipient will only use or disclose the limited data set PHI for limited purposes.
 - i. The data use agreement shall:
 - A. Establish permitted uses and disclosures of such information by the limited data set recipient;
 - B. Establish who is permitted to use or receive the limited data set;

- C. Require that the limited data set recipient:
 - I. Refrain from using or further disclosing the information other than as permitted by the data use agreement or required by law;
 - II. Use appropriate safeguards to prevent use or disclosure of the information other than as provided for by the data use agreement;
 - III. Report to the WDH Compliance Office any use or disclosure of the information not provided for by the data use agreement;
 - IV. Ensure that any agents to whom it provides the limited data set agree to the same restrictions and conditions that apply to it as the limited data set recipient;
 - V. Refrain from identifying the information or contacting the individual(s); and
 - VI. Provide WDH a final copy of any publications, results, reports, etc., derived from the use of the data.
- d. If WDH knows of a pattern of activity or practice of the limited data set recipient that constitutes a material breach or violation of the data use agreement, WDH shall take reasonable steps to cure the breach or end the violation. If such steps are unsuccessful, WDH shall discontinue disclosure of PHI to the recipient and report the problem to the Secretary (of the U.S. Department of Health and Human Services).
- e. A business associate agreement provides the satisfactory assurance required of a data use agreement. If the limited data set recipient has entered into a business associate agreement with WDH, it will not also be required to enter into a data use agreement.
- f. If a limited data set is disclosed for research purposes, the research requirements articulated in WDH Policy AS-006; Uses and Disclosures for Research shall also be followed.

Contacts:

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References:

45 CFR § 164.514

Wyo. Stat. Ann. § 9-2-126

Guidance Regarding Methods for De-identification of Protected Health Information in Accordance with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, November 26, 2012, U.S. Department of Health and Human Services, Office for Civil Rights.

Training: